

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WASHINGTON CATTLEMEN'S  
ASSOCIATION,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, et al.,

Defendants.

And

PUGET SOUNDKEEPER ALLIANCE,  
IDAHO CONSERVATION LEAGUE, and  
SIERRA CLUB,

Defendant-  
Intervenors.

No. 2:19-CV-0569-JCC

JOINT STATUS REPORT

1 In accordance with this Court’s Order, Dkt. No. 95 (Feb. 8, 2021), Plaintiff, Defendants  
2 (“the Agencies”),<sup>1</sup> and Intervenor-Defendants hereby submit this joint status report:

3 1. In this proceeding, Plaintiff is challenging three rules promulgated by the Agencies  
4 that define the phrase “waters of the United States” in Section 1362(7) of the Clean Water Act: the  
5 Clean Water Rule: Definition of “Waters of the United States,” 80 Fed. Reg. 37,054 (June 29,  
6 2015) (“2015 Rule”), the Definition of “Waters of the United States” – Recodification of Pre-  
7 Existing Rules, 84 Fed. Reg. 56,626 (Oct. 22, 2019) (“2019 Rule”), and the Navigable Waters  
8 Protection Rule: Definition of “Waters of the United States,” 85 Fed. Reg. 22,250 (Apr. 21, 2020)  
9 (“2020 Rule”).

10 2. With respect to the 2020 Rule,<sup>2</sup> as stated in the Parties’ stipulated motion to stay  
11 the proceeding, Dkt. No. 94 (Feb. 2, 2021), the Agencies are reviewing this rule. Accordingly,  
12 the Court granted the Parties’ motion to stay the proceeding until May 1, 2021. Dkt. No. 95 (Feb.  
13 8, 2021). The Court further ordered the Parties to submit a joint status report on or before May 1,  
14 2021 “to update the Court on the status of the case.” *Id.*

15 3. On March 10, the new EPA Administrator, Michael Regan, was sworn in. 167  
16 Cong. Rec. S1456 (daily ed. Mar. 10, 2021). The new Administrator and his staff have since been  
17 briefed on the 2020 Rule, and the new administration is currently weighing its options regarding  
18 the rule.

19 4. Recently, Administrator Regan pledged to “begin a stakeholder engagement  
20 process involving our AG community, Farm Bureau or AG CEOs, our environmental community,  
21 to look at the lessons learned and how we can move forward.” *Hearing on Fiscal 2022 Budget*  
22

23 <sup>1</sup> EPA Administrator Michael Regan and Acting Assistant Secretary of the Army for Civil Works  
24 Jaime Pinkham are automatically substituted for their predecessors in office pursuant to Rule  
25 25(d) of the Federal Rules of Civil Procedure.

26 <sup>2</sup> On July 31, 2020, this Court stayed Plaintiff’s claims with respect to the 2015 and 2019 Rules.  
27 Dkt. No. 86. The Court noted that the Parties “may move to lift the stay following the Court’s  
ruling on the merits of Plaintiff’s claims regarding the 2020 Rule.” *Id.*

1 *Requests for EPA Before the H. Appropriations Subcomm. on Interior & Env't*, 117th Cong. 4  
 2 (Apr. 21, 2021) (statement of Michael Regan, EPA Administrator). While the Agencies have not  
 3 made a final decision with respect to the 2020 Rule, Administrator Regan has expressed his intent  
 4 to “chart a path forward on waters of the U.S. that will be inclusive and forward-looking.” *Id.* at  
 5 5.

6 5. In light of this ongoing review, the Agencies intend to move to further extend the  
 7 stay until July 1, 2021. Plaintiff has indicated that it would oppose such a motion; intervenor-  
 8 defendants have indicated they would support the Agencies’ motion to further stay the  
 9 proceeding. The Agencies’ motion to further stay this proceeding will be filed separately from  
 10 this joint status report.

11 Dated: April 29, 2021

Respectfully submitted,

12  
 13 /s/ Hubert T. Lee

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 29, 2021, I filed the foregoing using the Court's CM/ECF system, which will electronically serve all counsel of record registered to use the CM/ECF system.

/s/ Hubert T. Lee

Hubert T. Lee